



Sen. Heather A. Steans

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1 AMENDMENT TO HOUSE BILL 4963

2 AMENDMENT NO. _____. Amend House Bill 4963 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Religious Freedom and Marriage Fairness Act.

6 Section 5. Purposes; rules of construction. This Act shall
7 be liberally construed and applied to promote its underlying
8 purpose, which is to provide same-sex and different-sex couples
9 and their children equal access to the status, benefits,
10 protections, rights, and responsibilities of civil marriage.

11 Section 10. Equal access to marriage.

12 (a) All laws of the State of Illinois, whether they derive
13 from statute, administrative or court rule, policy, common law,
14 or any other source of civil or criminal law, applicable to
15 marriage shall apply equally to marriages of same-sex and

1 different-sex couples and their children.

2 (b) Parties to a marriage and their children, regardless of
3 whether the marriage consists of a same-sex or different-sex
4 couple, shall have all the same benefits, protections, and
5 responsibilities under law, whether they derive from statute,
6 administrative or court rule, policy, common law, or any other
7 source of civil or criminal law.

8 (c) Parties to a marriage shall be included in any
9 definition or use of terms such as "spouse", "family",
10 "immediate family", "dependent", "next of kin", "wife",
11 "husband", "bride", "groom", "wedlock", and other terms that
12 refer to or denote the spousal relationship, as those terms are
13 used throughout the law, regardless of whether the parties to a
14 marriage are of the same sex or different sexes.

15 (d) To the extent any of the laws of Illinois adopt, refer
16 to, or rely upon provisions of federal law as applicable to
17 this State, parties to a marriage of the same sex and their
18 children shall be treated under the law of this State as if
19 federal law recognized the marriages of same-sex couples in the
20 same manner as the law of this State.

21 Section 15. Severability. If any part of this Act or its
22 application to any person or circumstance is adjudged invalid,
23 such adjudication or application shall not affect the validity
24 of this Act as a whole or of any other part.

1 Section 905. The Illinois Marriage and Dissolution of
2 Marriage Act is amended by changing Sections 201, 209, and 212
3 and by adding Section 220 as follows:

4 (750 ILCS 5/201) (from Ch. 40, par. 201)

5 Sec. 201. Formalities.) A marriage between 2 persons ~~a man~~
6 ~~and a woman~~ licensed, solemnized and registered as provided in
7 this Act is valid in this State.

8 (Source: P.A. 80-923.)

9 (750 ILCS 5/209) (from Ch. 40, par. 209)

10 Sec. 209. Solemnization and Registration.)

11 (a) A marriage may be solemnized by a judge of a court of
12 record, by a retired judge of a court of record, unless the
13 retired judge was removed from office by the Judicial Inquiry
14 Board, except that a retired judge shall not receive any
15 compensation from the State, a county or any unit of local
16 government in return for the solemnization of a marriage and
17 there shall be no effect upon any pension benefits conferred by
18 the Judges Retirement System of Illinois, by a judge of the
19 Court of Claims, by a county clerk in counties having 2,000,000
20 or more inhabitants, by a public official whose powers include
21 solemnization of marriages, or in accordance with the
22 prescriptions of any religious denomination, Indian Nation or
23 Tribe or Native Group, provided that when such prescriptions
24 require an officiant, the officiant be in good standing with

1 his or her religious denomination, Indian Nation or Tribe or
2 Native Group. Either the person solemnizing the marriage, or,
3 if no individual acting alone solemnized the marriage, both
4 parties to the marriage, shall complete the marriage
5 certificate form and forward it to the county clerk within 10
6 days after such marriage is solemnized.

7 (a-5) Nothing in this Act shall be construed to require any
8 religious denomination or Indian Nation or Tribe or Native
9 Group, or any minister, clergy, or officiant acting as a
10 representative of a religious denomination or Indian Nation or
11 Tribe or Native Group, to solemnize any marriage. Instead, any
12 religious denomination or Indian Nation or Tribe or Native
13 Group, or any minister, clergy, or officiant acting as a
14 representative of a religious denomination or Indian Nation or
15 Tribe or Native Group is free to choose which marriages it will
16 solemnize. No refusal by a religious denomination or Indian
17 Nation or Tribe or Native Group, or any minister, clergy, or
18 officiant acting as a representative of a religious
19 denomination or Indian Nation or Tribe or Native Group to
20 solemnize any marriage under this Act shall create or be the
21 basis for any civil, administrative, or criminal penalty,
22 claim, or cause of action.

23 (a-10) (1) For purposes of this subsection (a-10),
24 "religious organization" is limited to churches, mosques,
25 synagogues, temples, nondenominational ministries,
26 interdenominational and ecumenical organizations, mission

1 organizations, and other faith-based associations and
2 societies whose principal purpose is the study, practice, or
3 advancement of religion.

4 (2) Nothing in this Act shall be construed to require a
5 religious organization as defined in paragraph (1) of this
6 subsection (a-10) to make available a parish hall or other
7 religious facility on the premises of a church, mosque,
8 synagogue, temple, or other house of worship for solemnization
9 or celebration of a marriage that is in violation of the
10 religious organization's religious beliefs, provided that:

11 (A) the religious facility is primarily used by members
12 of the parish or congregation for worship and other
13 religious purposes;

14 (B) for solemnization and celebration of marriages,
15 the religious organization generally restricts use of the
16 religious facility to its members and opens the facility
17 only occasionally to non-members on an unpaid basis; and

18 (C) the religious organization does not make the
19 religious facility available to the general public for
20 rental or use for which a rental fee or other compensation
21 is required or for which public funding or other public
22 benefit is received.

23 (3) Nothing in this Section shall be interpreted to exempt
24 the owner or operator of any religious facility from the
25 requirements of the Illinois Human Rights Act if the religious
26 facility is a place of public accommodation as defined in

1 Section 5-101 of the Illinois Human Rights Act.

2 (4) Nothing in this Act shall be construed to prevent a
3 religious organization as defined in paragraph (1) of this
4 subsection (a-10) from limiting employment to individuals of
5 the same religious faith or from making internal personnel
6 decisions concerning the terms and conditions of employment for
7 positions (A) that require a significant degree of religious
8 training and (B) whose primary duties are ministerial in
9 nature, such as conducting worship services or providing
10 religious instruction.

11 (b) The solemnization of the marriage is not invalidated by
12 the fact that the person solemnizing the marriage was not
13 legally qualified to solemnize it, if either party to the
14 marriage believed him or her to be so qualified or by the fact
15 that the marriage was inadvertently solemnized in a county in
16 Illinois other than the county where the license was issued.

17 (Source: P.A. 95-775, eff. 1-1-09.)

18 (750 ILCS 5/212) (from Ch. 40, par. 212)

19 Sec. 212. Prohibited Marriages.

20 (a) The following marriages are prohibited:

21 (1) a marriage entered into prior to the dissolution of
22 an earlier marriage of one of the parties;

23 (2) a marriage between an ancestor and a descendant or
24 between siblings ~~a brother and a sister~~, whether the
25 relationship is by the half or the whole blood or by

1 adoption;

2 (3) a marriage between an uncle and a niece, between an
3 uncle and a nephew, ~~or~~ between an aunt and a nephew, or
4 between an aunt and a niece, whether the relationship is by
5 the half or the whole blood;

6 (4) a marriage between cousins of the first degree;
7 however, a marriage between first cousins is not prohibited
8 if:

9 (i) both parties are 50 years of age or older; or

10 (ii) either party, at the time of application for a
11 marriage license, presents for filing with the county
12 clerk of the county in which the marriage is to be
13 solemnized, a certificate signed by a licensed
14 physician stating that the party to the proposed
15 marriage is permanently and irreversibly sterile;

16 (5) (blank). ~~a marriage between 2 individuals of the~~
17 ~~same sex.~~

18 (b) Parties to a marriage prohibited under subsection (a)
19 of this Section who cohabit after removal of the impediment are
20 lawfully married as of the date of the removal of the
21 impediment.

22 (c) Children born or adopted of a prohibited or common law
23 marriage are the lawful children of the parties.

24 (Source: P.A. 94-229, eff. 1-1-06.)

25 (750 ILCS 5/220 new)

1 Sec. 220. Consent to jurisdiction. Members of a same-sex
2 couple who enter into a marriage in Illinois consent to the
3 jurisdiction of the courts of Illinois for the purpose of any
4 action relating to the marriage even if one or both parties
5 cease to reside in this State. A court shall enter a judgment
6 of dissolution of marriage if at the time the action is
7 commenced it meets the grounds for dissolution of marriage set
8 forth in this Act.

9 (750 ILCS 5/213.1 rep.)

10 Section 910. The Illinois Marriage and Dissolution of
11 Marriage Act is amended by repealing Section 213.1.

12 Section 915. The Illinois Religious Freedom Protection and
13 Civil Union Act is amended by changing Section 60 and by adding
14 Section 65 as follows:

15 (750 ILCS 75/60)

16 Sec. 60. Respect for marriages and civil unions entered
17 into in other jurisdictions Reciprocity. A ~~marriage between~~
18 ~~persons of the same sex, a~~ civil union, or a substantially
19 similar legal relationship other than common law marriage,
20 legally entered into in another jurisdiction, shall be
21 recognized in Illinois as a civil union. A marriage, whether of
22 the same sex or different sexes and providing that it is not a
23 common law marriage, legally entered into in another

1 jurisdiction, shall be recognized in Illinois as a marriage in
2 accordance with the provisions of the Illinois Marriage and
3 Dissolution of Marriage Act except that Section 216 of the
4 Illinois Marriage and Dissolution of Marriage Act shall not
5 apply to marriages of same-sex couples validly entered into in
6 another jurisdiction.

7 (Source: P.A. 96-1513, eff. 6-1-11.)

8 (750 ILCS 75/65 new)

9 Sec. 65. Voluntary conversion of civil union to marriage.

10 (a) Parties to a civil union may apply for and receive a
11 marriage license and have such marriage solemnized and
12 registered pursuant to Section 209 of the Illinois Marriage and
13 Dissolution of Marriage Act, provided the parties are otherwise
14 eligible to marry and the parties to the marriage are the same
15 as the parties to the civil union. The fee for application for
16 a marriage license shall be waived in such circumstances.

17 (b) For a period of one year following the effective date
18 of this amendatory Act of the 97th General Assembly, parties to
19 a civil union may have their civil union legally designated and
20 recorded as a marriage, deemed effective on the date of
21 solemnization of the civil union, without payment of any fee,
22 provided the parties' civil union has not been dissolved and
23 there is no pending proceeding to dissolve the civil union.
24 Upon application to a county clerk, the parties shall be issued
25 a marriage certificate. The parties' signatures on the marriage

1 certificate and return of the signed certificate for recording
2 shall be sufficient to convert the civil union into a marriage.
3 The county clerk shall notify the Department of Public Health
4 within 45 days by furnishing a copy of the certificate to the
5 Department of Public Health.

6 (c) When parties to a civil union have married, or when
7 their civil union has been converted to a marriage under this
8 Section, the parties, as of the date stated in the marriage
9 certificate, shall no longer be considered in a civil union and
10 shall be in a legal marriage.

11 Section 997. Severability. The provisions of this Act are
12 severable under Section 1.31 of the Statute on Statutes.

13 Section 999. Effective date. This Act takes effect 30 days
14 after becoming law."